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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,347	12/21/2005	Shuichi Shimizu	JP920020100US1	8290
54856	7590	10/03/2008	EXAMINER	
LOUIS PAUL HERZBERG 3 CLOVERDALE LANE MONSEY, NY 10952			NISSAN, BARAK	
ART UNIT	PAPER NUMBER			
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/523,347	<b>Applicant(s)</b> SHIMIZU ET AL.
	<b>Examiner</b> BARAK NISSAN	<b>Art Unit</b> 2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 May 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 22-32 and 34 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 22-32 and 34 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-166/08)  
 Paper No(s)/Mail Date 1/28/2005

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

**Election/Restrictions**

1. In the response dated 5/07/2008, applicant has chosen Group I, claims 22-32 and 34. The election without traverse is acknowledged. The applicants are reminded that the claims have not been cancelled and that they are merely withdrawn from further consideration.

***Information Disclosure Statement***

2. The information disclosure statements filed 1/27/2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because some of the publication listed in the information disclosure statement failed to identify the relevant pages and/or publication dates of when the documents were published. See 37 CFR 1.98(b)(5). It has been placed in the application file, but the information referred to therein has been considered in part.

**Abstract**

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether

there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the indicating numbers shown for the networks and the server should be removed and the title should not be repeated [e.g. the digital contents distribution system]. Also, the applicant should avoid using the phrase as shown "present invention distributes". Correction is required.

#### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22, 24, 25, 27-32, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monteiro et al. (6,434,622) in view of Patrick et al. (US 5,790,541).

6. Regarding claim 22, Monteiro teaches a communication system which has digital contents distribution server (primary server [20]) connected to a network and for

providing digital contents to a network (i.e. primary server [20] transmits the streamed data to media servers [30] in which retransmit that data to the users [40] via networks; [e.g. unicast link or multicast link], see Figures 1, 3, and 4), the server [primary server] comprising:

dividing the digital contents [e.g. audio] into a plurality of packets (e.g. the server can divide each packet can correspond to a 20 millisecond segment of speech, see col 7 lines 10-22);

storing a list including destinations included in the second network (users/clients list resides on a primary server, see Fig. 4 and col 6 lines 30-44);

transmitting packets of a minimum unit for constructing the digital contents from the server through the networks (i.e. the primary server can only a single packet is transmitted at a time on the local network and any computer directly to the local network can receive that packet, see col 6 lines 21-23, col 3 lines 26-28, and see Fig. 3);

dynamic allocation means for dynamically allocating [i.e. group membership is dynamic], by use of the list, the destinations to the network to which the packets of the minimum unit are transmitted (see col 6 lines 1-6);

receiving receipt notices from the destinations and selecting a destination serving as an intermediate node [e.g. media server] by use of the receipt notices (i.e. a receipt notice is received by the primary server from the media servers as shown in Fig. 3. This point towards the use of a TCP connection between the server which provides for reliable stream delivery, see col 7 lines 1-10);

transmitting the packets of the minimum unit by use of the destination selected

as the intermediate node (i.e. a media server [30] can transmit the packets of minimum unit to connected users, see Figures 3 and 16A/B, and col 16 line 49-56).

However, Monteiro does not explicitly teach having a distribution server connected to a first network and for providing the digital contents to a second network.

Patrick, on the other hand, discloses a system in providing for distributed internetwork routing of information [packets/frames] in a communication system.

Patrick teaches a system having a distribution server connected to a first network and for providing the digital contents to a second network (see Figs 8-11, see col 10 line 19 – col 12 line 57).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made to modify the system of Monteiro teachings to establish having first and second network taught by Patrick. One would be motivated to combine these teachings because in order to account for situations where servers are geographically distributed from each other and are not directly connected (see col 2 lines 7-14 [Patrick]).

7. Regarding claim 24, Monteiro further teaches:

a destination list (i.e. users or client list resides on a server/node as in Fig. 4 and see col 6 lines 30-44); and

means for dynamically updating the destination list in association with a change of a construction of the second network (i.e. updating the protocol sequences directed by a server, see Table 2 [col 12 lines 15-31]).

8. Regarding claim 25, Monteiro further teaches:

receiving, through the network, dynamically allocated packets of a minimum unit constructing digital contents divided into a plurality of packets (i.e. the packets are being transmitted from the primary server to the media server, see col 5 line 66- col 6 line 14); means for [Users/media servers, 30/40] receiving packets for reconstructing the digital contents through the network; and means for making clients included in the network hold the digital contents therein by use of the packets of the minimum unit received through the first network and packets received from other clients through the network (i.e. the media server broadcasts the packets to the users [40] in the second network, see col 6 lines 15-36, see Fig. 3).

9. Regarding claim 27, Monteiro further teaches:

identifying the packets of the minimum unit from the packets received from the other clients (i.e. the indication of using a TCP connection can identify that packets of the minimum unit were received by other servers/users, see col 7 lines 1-10).

10. Regarding claim 28, Monteiro further teaches:

a list of members constructing the second network (i.e. users or client list resides on a server as in Fig. 4 and see col 6 lines 30-44); and

updating the list in any of cases where a client is added to and deleted from the second network (i.e. updating the protocol sequences directed by a server, see Table 2 and col 12 lines 15-31).

11. Regarding claim 29, Monteiro teaches:

a server connected to the network (see Fig. 3) and for holding therein and transmitting the digital contents (i.e. the digital contents are being transmitted by a unicast link [TCP connection] to users from the the primary server, see col 16 line 57- col 17 line 2); and

a plurality of groups constructed by including clients constructing the network connected to the another network and for constructing the wide area group for receiving and providing the digital contents (see Fig. 3, see col 5 line 66- col 6 line 34);

wherein the server [20] comprises means for dividing the held digital contents into a plurality of packets (e.g. each packet can correspond to a 20 millisecond segment [dividing] of speech, see col 7 lines 10-22); and

transmitting packets of a minimum unit for constructing the digital contents to the clients in the group by dynamically allocating the packets without overlap, and wherein each of the clients having received the packets of the minimum unit comprises means for distributing copies of the packets of the minimum unit received from the server to all of the clients constructing a group including the each client and another client constructing another group (i.e. users are resided on the network receiving copied packets of minimum unit from the media server in response to the selected client. Each packets are transmitted in streams in a way that implements a form of multicast packets. Clients can duplicate the streams into more streams of data to retransmits those packets to other clients in the second network so there would not be any overlap in sending the same packet to the same user (see col 6 lines 30-44, col 5 lines 66-67, col 6 lines 1-13, and see Fig. 4).

However, Monteiro does not explicitly teach having a distribution server connected to a first network and for providing the digital contents to a second network.

Patrick, on the other hand, teaches a system having a distribution server connected to a first network and for providing the digital contents to a second network (see Figs 8-11, see col 10 line 19 – col 12 line 57).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made to modify the system of Monteiro teachings to establish having first and second network taught by Patrick. One would be motivated to combine these teachings because in order to account for situations where servers are geographically distributed from each other and are not directly connected (see col 2 lines 7-14 [Patrick]).

12. Regarding claim 30, it is a server claim corresponding to system claim 29. It is rejected for the same reasons.

13. Regarding claim 31, Monteiro further teaches:

creating packets of a minimum unit comprises means for [primary server] creating packets of a minimum unit including data for distributing a copy of the packets of the minimum unit at least to another group (see col 6 lines 30-44, col 5 lines 66-67, col 6 lines 1-13, and see Fig. 4).

14. Regarding claim 32, Monteiro further teaches:

creating packets of a minimum unit by dividing the held digital contents [e.g. audio] into a plurality of packets (e.g. each packet can correspond to a 20 millisecond

segment [dividing] of speech, see col 7 lines 10-22);

selecting and registering therewith distribution destinations of the packets of the minimum unit in such a manner that identical packets of the minimum unit are not overlapped for a predetermined group (i.e. single packets is transmitted at a time on the local network in which packets will not get overlapped and that any user directly connected to the local area network can receive that packet, see col 5 line 66 – col 6 line 30);

storing data of the selected distribution destinations as the packets of the minimum unit; and reading and transmitting, for constructing the digital contents, the stored packets of the minimum unit to clients of the selected distribution destinations in the group while dynamically allocating the read-out packets (i.e. the server stores the packets as they continue to distribute the packets across to the users, see Fig. 16A, see col 16 line 49 – col 17 line 22).

15. Regarding claim 34, it is a computer readable recording medium claim corresponding to method claim 32. It is rejected for the same reasons.

16. Claims 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monteiro et al. (6,434,622) in view of Patrick (US 5,790,541) in further view of Motles (US 5,095,444).

17. Regarding claim 23, the combination of Monteiro in view of Patrick teaches the invention substantially as claimed. See the rejection of claim 22 above.

Monteiro further teaches:

means for (Administration Server [60]) registering, with the server (i.e. administration server is responsible for registering new users, authenticating the users who want to log onto the distribution system, see col 3 lines 50-63).

However, the combination of Monteiro in view of Patrick do not teach a time when the server transmits the packets of the minimum unit to a predetermined destination, a time when a client having the predetermined destination issues the receipt notice of the packets of the minimum unit, and calculating a time difference between the transmission time and the receipt notice issuance time.

Motles, on the other hand, teaches a time when the server transmits the packets of the minimum unit [i.e. transmits a data stream] to a predetermined destination [i.e. determining the time when the source node transmits the data stream to the destination node [front-end processor], col 7 lines 50-54, abstract], a time when a client having the predetermined destination issues the receipt notice of the packets of the minimum unit (i.e. determining a receipt time at which the response for the data stream is received by the source node, col 9 lines 1-3); and

means [i.e. communications program used to determine the time of data communications between the source node and the destination node) for calculating a time difference between the transmission time and the receipt notice issuance time (i.e. determining the transmission delay which includes the calculation of the time difference between the issued time [source node transmits streamed data] and the receipt time [destination node response to the received data from source node, col 9 lines 16-19].

It would have been obvious to one of ordinary skilled in the art at the time of invention was made to modify the system of Monteiro and Patrick teachings to include the time difference to when the packets are transmitted from the server to the destination client and the receipt notices at which the response for the packets is received by the source node taught by Motles. One would be motivated to combine these teachings because data communication is known for transmission delays between the server or source node and the destination node/client is determined by calculating the time difference between the issue time of when the server transmits the packets to the destination node via the network and receipt time at which the response for the packets is obtained by the server. It is very well known in the art to monitor the statuses of the transmission time for the route at which packets are being transmitted via the network between servers and clients (see col 1 lines 33-54 [Motles]).

18. Regarding claim 26, Motles further teaches:

means for [server] preparing a receipt notice including a time of receiving the packets of the minimum unit (i.e. determining a receipt time at which the response for the data stream is received by the source node, col 9 lines 1-3).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARAK NISSAN whose telephone number is (571)270-3632. The examiner can normally be reached on Mon-Thurs 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)-272-3836. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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